

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.286 OF 2006**

Namita Ramesh Chandra Shah
vs.
The State of Maharashtra

...Applicant

...Respondent

Mr.S.P.Kadam for the Applicant.
Ms M.M.Deshmukh,A.P.P. for State

**CORAM: A.S.OKA,J.
DATE : FEBRUARY 22,2006.**

P.C.:

1. The Applicant is one of the accused in a case registered for commission of offences punishable under Sections 420, 465, 467, 468, 471 and 472 read with Section 34 of the Indian Penal Code. The Applicant was arrested on 10th June 2005. The Applicant had filed a bail Application in this Court being Criminal Application No.4317 of 2005. The said application was rejected on 22nd July 2005. After filing of the charge sheet, the Applicant filed a fresh application before the Sessions Court which came to be rejected on 4th October 2005. After rejection of the said Application, the Applicant filed a Criminal Application No.7086 of 2005 in this Court. By order dated 29th November 2005 this Court permitted the Applicant to withdraw the application with liberty to file appropriate application containing all details about the Applicant and annexing all relevant documents. It appears that by that time, the Applicant had filed one more application before the Sessions Court which came to be rejected on 17th December 2005. This Application is filed on the basis of liberty

granted by this Court in Criminal Application No.7086 of 2005. As the first bail application of the Applicant was rejected by me, by passing an administrative order the Hon'ble the Acting Chief Justice has assigned this Application to me.

2. The learned Advocate for the Applicant submitted that the earlier application for bail was rejected by this Court only on the ground that investigation was in progress. He submitted that now there is a change in the circumstances in as much as investigation has been completed and the charge sheet has been filed subsequent to the rejection of the first bail application by this Court. He submitted that the Applicant is a 23 year old woman and since the offences are triable by the Judicial Magistrate (First Class), the Applicant will suffer prejudice as trial will not conclude expeditiously. He submitted that considering the fact that the Applicant is a young woman, she is entitled to be enlarged on bail as time of almost six months has been lapsed from the date of filing of the charge sheet.

3. The learned A.P.P. opposed the Application by pointing out that the allegations against the Applicant are of very serious nature. She pointed out that two applications made by the Applicant before the Sessions Court have been rejected after filing of the charge sheet. She submitted that the Applicant is disentitled to bail.

4. I have considered the submissions. The Advocate for the

Applicant has filed a separate compilation containing various documents. Perusal of the order passed by this Court on 22nd July 2005 and especially paragraph Nos.3 and 4 thereof clearly disclose that the application for bail made by the Applicant was rejected mainly on the ground that the if the Applicant is enlarged even before the completion of the investigation, it will affect the investigation. This Court has further observed that the Applicant obtained bogus driving licence in the name of Smita B. Patel and the Applicant opened a bank account in the same name. The main accusation is against the father of the Applicant that amounts are taken by him from different persons by promising them to give employment in Railway Department.

5. While rejecting the first Application filed by the Applicant in the Sessions Court after filing of the charge sheet, the only reason for rejection which is recorded is that release of the accused will be highly prejudicial to the public at large. While rejecting the second bail application by the Applicant after the filing of the charge sheet, no reasons are assigned by the Sessions Court except an apprehension regarding possibility of tampering with the evidence.

6. The Applicant as stated above is a 23 year old woman who is in custody from June 2005. There is no dispute between the parties that all the offences allegedly committed by the applicant are triable by the Judicial Magistrate (F.C.).

Looking to the nature of accusation against the Applicant and the other co-accused and considering the fact that the trial will be in the Court of Judicial Magistrate (F.C.), there is no possibility of conclusion of the trial within a reasonable time. Investigation has been completed long back and charge sheet has been filed on 8th August 2005. This brings about a change in circumstances calling for reconsideration of view taken earlier. Considering the fact that the Applicant is a young woman, she deserves to be enlarged on bail. However, stringent conditions will have to be imposed considering the nature of the case made out by the prosecution.

7. Hence I passing the following order:

i) The Applicant shall be enlarged on bail in connection with C.R.No.I-153 of 2005 registered with Economic Offences Wing, C.I.D., Thane subject to furnishing a personal bond of Rs.50,000/- (Rupees fifty thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that the Applicant will attend the office of Economic Offences Wing, C.I.D., Thane at 11.00 a.m. on every first Saturday of every calendar month and will continue to report the local police station once in a fortnight till the conclusion of trial.

iii) The order granting bail will be given effect only after

the Applicant deposits her passport with the Investigating Officer. If the passport is already deposited with the Investigating Officer, the Applicant will be enlarged on bail subject to satisfaction of the other conditions.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Whenever the Applicant wants to enter the State of Maharashtra, the Applicant will give advance intimation of her visit with necessary particulars to the Investigating Officer.

viii) Application is disposed of in above terms.

. Parties to act upon an authenticated copy of this order.

JUDGE